

**FILED**

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF OKLAHOMA

JAN 13 2014

ROBERT D. DENNIS, CLERK  
U.S. DIST. COURT, WESTERN DIST. OF OKLA.  
BY Wah DEPUTY

ERIC T. FRIERSON II,

Plaintiff,

vs.

CCA CORP. et al.,

Defendants.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

No. CIV-12-1316-W

**ORDER**

On November 5, 2013, United States Magistrate Judge Suzanne Mitchell issued a Report and Recommendation in this matter and recommended that summary judgment be granted in favor of defendants Mr. Thurman, Mrs. Thurman and Lt. S. Smith. Magistrate Judge Mitchell also recommended that the Court sua sponte grant summary judgment in favor of defendants Corrections Corporation of America, Inc. ("CCA"), Michael Carreda, Lt. Williams, Fred E. Figueroa and Assistant Chief of Security J. Hatton. Plaintiff Eric T. Frierson II, proceeding pro se, was advised of his right to object, see Doc. 39 at 9, and Frierson filed Motions for Objection, see Docs. 40, 42, as well as requests for additional time to submit certain "literature." See Docs. 40, 42, 44.

Upon de novo review of the record, the Court finds that the claims asserted by Frierson in his complaint against all defendants are untimely and further finds that Frierson has not established that tolling of the two-year limitations period provided by title 12, section 95(A)(3) of the Oklahoma Statutes is warranted in this instance. Accordingly, the Court not only concurs with Magistrate Judge Mitchell's suggested disposition of the defendants' motion and of the claims against the nonmovant defendants, but also finds

that Frierson has had ample opportunity to submit any documents, arguments and authorities in support of his objection to the Report and Recommendation.

The Court therefore

(1) ADOPTS the Report and Recommendation [Doc. 39] filed on November 5, 2013;

(2) GRANTS the Motion to Dismiss [Doc. 32] filed on July 29, 2013, by defendants Thurman, Thurman and Smith, which after notice, see Doc. 35, was construed as a motion seeking relief under Rule 56, F.R.Civ.P.;

(3) sua sponte GRANTS summary judgment in favor of defendants CCA, Carreda, Williams, Figueroa and Hatton, e.g., Zinna v. Cook, 428 Fed. Appx. 838, 841 (10<sup>th</sup> Cir. 2011)(cited pursuant to Tenth Cir. R. 32.1);

(4) DENIES Frierson's Motion for Extension and/or Amend [Doc. 44] file-stamped January 9, 2014; and

(5) ORDERS that judgment issue in favor of the defendants forthwith.

ENTERED this 13<sup>th</sup> day of January, 2014.



LEE R. WEST  
UNITED STATES DISTRICT JUDGE